

AMENDED IN ASSEMBLY MAY 31, 2012

**SENATE BILL**

**No. 1102**

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**Introduced by Senator DeSaulnier**  
*(Coauthor: Senator Anderson)*

February 16, 2012

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An act to add Section 14525.6 to the Government Code, and to amend Sections 167, 188.8, and 188.11 of, and to add Section ~~189.9~~ 188.9 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, as amended, DeSaulnier. State transportation improvement program.

(1) Existing law establishes the state transportation improvement program process, pursuant to which the California Transportation Commission generally programs and allocates available funds for transportation capital improvement projects over a multiyear period. Existing law provides that the Department of Transportation is responsible for the state highway system. Existing law requires the department to annually prepare a project delivery report that identifies milestone dates for state highway projects costing \$1,000,000 or more for which the department is the responsible agency for project development work.

This bill would require the department, *beginning not later than November 15, 2014*, as part of the annual project delivery report, to report on the difference between the original allocation made by the commission and the actual construction capital and support costs at project close for all state transportation improvement program projects completed during the previous fiscal year.

(2) Existing law provides funding for interregional and regional transportation capital improvement projects through the state transportation improvement program process, with 25% of funds available for interregional projects and 75% for regional projects. Existing law requires funds available for regional projects to be programmed by the commission pursuant to the county shares formula, under which a minimum amount of funding is available for programming in each county. Existing law specifies the project costs to be charged against county shares in that regard and, in certain cases, provides for adjustments by the commission if project costs change.

This bill would revise these provisions to require project costs to include right-of-way support costs. The bill would require the commission to allocate funds for construction support costs for a project in the state transportation improvement program at the time of allocation of funds for construction capital costs. The bill would require a supplemental project allocation request to be made for all interregional and regional projects that experience construction support costs equal to or more than 120% of the amount originally allocated. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 14525.6 is added to the Government
- 2 Code, to read:
- 3 14525.6. ~~Beginning in 2013,~~ *Not later than November 15,*
- 4 *2014, and annually thereafter,* the department shall, as part of the
- 5 project delivery report required pursuant to Section 14525.5, report
- 6 on the difference between the original allocation made by the
- 7 commission and the actual construction capital and support costs
- 8 at project close for all state transportation improvement program
- 9 projects completed during the previous fiscal year.
- 10 SEC. 2. Section 167 of the Streets and Highways Code is
- 11 amended to read:
- 12 167. (a) Funds in the State Highway Account in the State
- 13 Transportation Fund shall be programmed, budgeted subject to
- 14 Section 163, and expended to maximize the use of federal funds
- 15 and shall be based on the following sequence of priorities:

1 (1) Operation, maintenance, and rehabilitation of the state  
2 highway system.

3 (2) Safety improvements where physical changes, other than  
4 adding additional lanes, would reduce fatalities and the number  
5 and severity of injuries.

6 (3) Transportation capital improvements that expand capacity  
7 or reduce congestion, or do both.

8 (4) Environmental enhancement and mitigation programs.

9 (b) With respect to the funds in the State Highway Account, in  
10 the Public Transportation Account, and in the Passenger Rail Bond  
11 Fund, the proposed budget shall be organized on a program basis.  
12 The proposed budget shall list the proposed expenditures for the  
13 transportation program under the following program elements:

14 (1) Administration.

15 (2) Program development.

16 (3) Maintenance.

17 (4) State highway operation and protection.

18 (5) Local assistance.

19 (6) Interregional improvements.

20 (7) Regional improvements.

21 (8) Environmental enhancement and mitigation programs.

22 (c) State operations expenditure amounts of the department for  
23 interregional and regional transportation improvement projects  
24 shall be listed as required by subdivision (b) of Section 14529 of  
25 the Government Code, but those amounts other than those for the  
26 acquisition of rights-of-way, construction, and construction support  
27 shall not be subject to allocation by the commission.

28 (d) To align the annual budget with the adopted state  
29 transportation improvement program, the department may submit  
30 to the Department of Finance revised capital outlay support and  
31 capital outlay budget estimates as part of its May Revision process.  
32 Budget proposals related to these changes shall be provided to the  
33 Legislature no later than May 1.

34 (e) The budget shall not include specific appropriations for  
35 specific transportation improvement projects, and the Legislature  
36 shall not enact legislation containing specific individual  
37 transportation projects.

38 (f) The basis for defining major and minor capital outlay projects  
39 shall be established by the commission.

1 (g) The Legislative Analyst shall prepare an analysis of the  
2 proposed expenditures for each program element as a part of the  
3 budget analysis.

4 (h) The department shall submit to the Legislative Analyst, and  
5 the Senate Committee on Budget and Fiscal Review and the  
6 Assembly Committee on Budget, on an annual basis, supplemental  
7 information to substantiate the department's proposed capital outlay  
8 support budget. The information shall be provided no later than  
9 May 1 of each year, and may be provided at an earlier date. The  
10 information shall include, but not be limited to, the following:

11 (1) A list of projects for which the department will perform  
12 capital outlay support work in the budget year. For each project,  
13 the department shall include:

14 (A) The planned project support budget for support of  
15 environmental, design, right-of-way, and construction phases.

16 (B) The planned capital costs, including construction capital  
17 costs and right-of-way capital costs.

18 (C) The estimated or actual construction start date and  
19 completion date.

20 (D) The name and year of the state transportation program in  
21 which the project is programmed, if applicable.

22 (E) Total prior fiscal year expenditures for capital outlay support.

23 (F) The number of full-time equivalent positions requested to  
24 perform support of environmental, design, right-of-way, and  
25 construction work in the fiscal year of the budget request.

26 (G) Milestones of project work by phases that are planned to  
27 be completed in the fiscal year of the budget request.

28 (H) The ratio of support to capital costs based on current  
29 programming.

30 (2) The capital-to-support ratio for all projects completed in the  
31 prior fiscal year in each program in each district.

32 (3) The current total number of authorized and vacant positions  
33 in the capital outlay support program in headquarters and in each  
34 district.

35 (4) A five-year projection of the department's staffing needs to  
36 support the state's transportation capital programs and any  
37 workload performed by the department related to federal or local  
38 funding for highway capital projects.

39 (5) The average cost of a personnel-year equivalent in each  
40 district based on the department's existing contracts for capital

1 outlay support work performed by a private company under  
2 contract with the department. For each average cost, the department  
3 shall provide a description of what factors are included in that cost.

4 (6) The average cost of a state staff personnel-year in the capital  
5 outlay support program in each district and in headquarters. The  
6 cost shall include the salary and wages, benefits, program overhead,  
7 administrative overhead, and other associated costs. The  
8 department shall provide a description of each component of the  
9 average cost.

10 (7) A summary of expected capital outlay support workload for  
11 the budget year that includes the following:

12 (A) The total full-time equivalents requested for each type of  
13 the following activities: environmental, design, right-of-way, and  
14 construction.

15 (B) The total full-time equivalents requested for each type of  
16 project, including, but not limited to, the state transportation  
17 improvement program, the state highway operation and protection  
18 program, bond programs, regional and local agency partnership  
19 workload, and any other program.

20 (8) The total number of projects with requested resources, as  
21 well as the number of projects in which the department is limited  
22 to an oversight role.

23 (9) The number of milestones scheduled, including  
24 environmental, design, right-of-way, and construction deliverables,  
25 as well as the number of projects expected to begin construction  
26 and reach completion.

27 (10) A summary for the most recently completed fiscal year for  
28 the following:

29 (A) Full-time equivalents and related funding expended,  
30 including support of environmental, design, right-of-way, and  
31 construction activities.

32 (B) Approved and filled positions as of the end of the fiscal  
33 year.

34 SEC. 3. Section 188.8 of the Streets and Highways Code is  
35 amended to read:

36 188.8. (a) From the funds programmed pursuant to Section  
37 188 for regional improvement projects, the commission shall  
38 approve programs and program amendments, so that funding is  
39 distributed to each county of County Group No. 1 and in each  
40 county of County Group No. 2 during the county share periods

1 commencing July 1, 1997, and ending June 30, 2004, and each  
2 period of four years thereafter. The amount shall be computed as  
3 follows:

4 (1) The commission shall compute, for the county share periods  
5 all of the money to be expended for regional improvement projects  
6 in County Groups Nos. 1 and 2, respectively, as provided in Section  
7 188.

8 (2) From the amount computed for County Group No. 1 in  
9 paragraph (1) for the county share periods the commission shall  
10 determine the amount of programming for each county in the group  
11 based on a formula that is based 75 percent on the population of  
12 the county to the total population of County Group No. 1 and 25  
13 percent on state highway miles in the county to the total state  
14 highway miles in County Group No. 1.

15 (3) From the amount computed for County Group No. 2 in  
16 paragraph (1) for the county share periods the commission shall  
17 determine the amount of programming for each county in the group  
18 based on a formula that is based 75 percent on the population of  
19 the county to the total population of County Group No. 2 and 25  
20 percent on state highway miles in the county to the total state  
21 highway miles in County Group No. 2.

22 (b) Notwithstanding subdivision (a), that portion of the county  
23 population and state highway mileage in El Dorado and Placer  
24 Counties that is included within the jurisdiction of the Tahoe  
25 Regional Planning Agency shall be counted separately toward the  
26 area under the jurisdiction of the Tahoe Regional Transportation  
27 Agency and may not be included in El Dorado and Placer Counties.  
28 The commission shall approve programs, program amendments,  
29 and fund reservations for the area under the jurisdiction of the  
30 Tahoe Regional Transportation Agency that shall be calculated  
31 using the formula described in paragraph (2) of subdivision (a).

32 (c) A transportation planning agency designated pursuant to  
33 Section 29532 of the Government Code, or a county transportation  
34 commission created by Division 12 (commencing with Section  
35 130000) of the Public Utilities Code, may adopt a resolution to  
36 pool its county share programming with any county or counties  
37 adopting similar resolutions to consolidate its county shares for  
38 two consecutive county share periods into a single share covering  
39 both periods. A multicounty transportation planning agency with  
40 a population of less than three million may also adopt a resolution

1 to pool the share of any county or counties within its region. The  
2 resolution shall provide for pooling the county share programming  
3 in any of the pooling counties for the new single share period and  
4 shall be submitted to the commission not later than May 1  
5 immediately preceding the commencement of the county share  
6 period.

7 (d) For the purposes of this section, funds programmed shall  
8 include the following costs pursuant to subdivision (b) of Section  
9 14529 of the Government Code:

10 (1) The amounts programmed or budgeted for both components  
11 of project development in the original programmed year.

12 (2) The amount programmed for right-of-way and right-of-way  
13 support costs in the year programmed in the most recent state  
14 transportation improvement program. If the final estimate is greater  
15 than 120 percent or less than 80 percent of the amount originally  
16 programmed, the amount shall be adjusted for final expenditure  
17 estimates at the time of right-of-way certification.

18 (3) The engineer's final estimate of project costs, including  
19 construction support, presented to the commission for approval  
20 pursuant to Section 14533 of the Government Code in the year  
21 programmed in the most recent state transportation improvement  
22 program. If the construction contract award amount is less than  
23 80 percent of the engineer's final estimate, excluding construction  
24 support, the department shall notify the commission and the  
25 commission may adjust its project allocation accordingly.

26 (4) Project costs shown in the program, as amended, where  
27 project allocations have not yet been approved by the commission,  
28 escalated to the date of scheduled project delivery.

29 (e) Project costs shown in the program may not be changed to  
30 reflect any of the following:

31 (1) Differences that are within 20 percent of the amount  
32 programmed for actual project development cost.

33 (2) Actual right-of-way purchase costs.

34 (3) Construction contract award amounts, except when those  
35 amounts are less than 80 percent of the engineer's final estimate,  
36 excluding construction support, and the commission has adjusted  
37 the project construction allocation.

38 (4) Changes in construction expenditures, except for  
39 supplemental project allocations made by the commission,

1 including supplemental allocations made pursuant to subdivision  
2 (b) of Section 188.9.

3 (f) For the purposes of this section, the population in each county  
4 is that determined by the last preceding federal census, or a  
5 subsequent census validated by the Population Research Unit of  
6 the Department of Finance, at the beginning of each county share  
7 period.

8 (g) For the purposes of this section, “state highway miles” means  
9 the miles of state highways open to vehicular traffic at the  
10 beginning of each county share period.

11 (h) It is the intent of the Legislature that there is to be flexibility  
12 in programming under this section and Section 188 so that, while  
13 ensuring that each county will receive an equitable share of state  
14 transportation improvement program funding, the types of projects  
15 selected and the programs from which they are funded may vary  
16 from county to county.

17 (i) Commencing with the four-year period commencing on July  
18 1, 2004, individual county share shortfalls and surpluses at the end  
19 of each four-year period, if any, shall be carried forward and  
20 credited or debited to the following four years.

21 (j) The commission, with the consent of the department, may  
22 consider programming projects in the state transportation  
23 improvement program in a county with a population of not more  
24 than 1,000,000 at a level higher or lower than the county share,  
25 when the regional agency either asks to reserve part or all of the  
26 county’s share until a future programming year, to build up a larger  
27 share for a higher cost project, or asks to advance an amount of  
28 the share, in an amount not to exceed 200 percent of the county’s  
29 current share, for a larger project, to be deducted from shares for  
30 future programming years. After consulting with the department,  
31 the commission may adjust the level of programming in the  
32 regional program in the affected region against the level of  
33 interregional programming in the improvement program to  
34 accomplish the reservation or advancement, for the current state  
35 transportation improvement program. The commission shall keep  
36 track of any resulting shortfalls or surpluses in county shares.

37 (k) Notwithstanding subdivision (a), in a region defined by  
38 Section 66502 of the Government Code, the transportation planning  
39 agency may adopt a resolution to pool the county share of any  
40 county or counties within the region, if each county receives no



1 less than 85 percent and not more than 115 percent of its county  
2 share for a single county share period and 100 percent of its county  
3 share over two consecutive county share periods. The resolution  
4 shall be submitted to the commission not later than May 1,  
5 immediately preceding the commencement of the county share  
6 period.

7 (l) Federal funds used for federal demonstration projects that  
8 use federal obligational authority otherwise available for other  
9 projects shall be subtracted from the county share of the county  
10 where the project is located.

11 SEC. 4. Section 188.9 is added to the Streets and Highways  
12 Code, to read:

13 188.9. (a) ~~The Beginning January 1, 2013, the~~ commission  
14 shall allocate construction support costs for a project in the state  
15 transportation improvement program at the time of allocation of  
16 construction capital costs.

17 (b) The commission shall require a supplemental project  
18 allocation request for a project that experiences construction  
19 support costs equal to or greater than 120 percent of the amount  
20 originally allocated.

21 SEC. 5. Section 188.11 of the Streets and Highways Code is  
22 amended to read:

23 188.11. (a) The commission, with assistance from the  
24 department and regional agencies, shall maintain a long-term  
25 balance of shares, shortfalls, and surpluses for regional  
26 improvement programs.

27 (b) The balance shall include all of the following:

28 (1) Shares from the fund estimate for each state transportation  
29 improvement program pursuant to Section 14525 of the  
30 Government Code.

31 (2) Amounts programmed in each state transportation  
32 improvement program pursuant to Section 14529 of the  
33 Government Code.

34 (3) Surpluses or shortfalls due to reservations or advancements  
35 pursuant to subdivision (j) of Section 188.8.

36 (4) Amounts deducted or added because of changes in project  
37 development costs or a cost increase or savings in the final  
38 engineering estimate or the final right-of-way certification estimate  
39 at the time of allocation for construction, pursuant to subdivisions  
40 (d) and (e) of Section 188.8.

1 (5) Any supplemental project allocations during or following  
2 construction, including supplemental allocations made pursuant  
3 to subdivision (b) of Section 188.9.

4 (6) Amounts deducted or added because of amendments to the  
5 state transportation improvement program that add, delete, or  
6 change the scope and cost of regional improvement projects,  
7 pursuant to Section 14531 of the Government Code.

8 (c) The balance through the preceding fiscal year shall be made  
9 available for review by all regional agencies at the time of each  
10 fund estimate, and by not later than August 15 of each year.

11 (d) The commission, through the fund estimate, shall restore  
12 for the next state transportation improvement program the  
13 interregional improvement program level specified in subdivision  
14 (a) of Section 164.